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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,429	10/28/2003	David Mathieu	AUC-32815-1	9460
2543 7590 02/28/2011 ALIX YALE & RISTAS LLP 750 MAIN STREET SUITE 1400 HARTFORD, CT 06103			EXAMINER NGUYEN, PHONG H	
			ART UNIT 3724	PAPER NUMBER
			MAIL DATE 02/28/2011	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/695,429

**Applicant(s)**

MATHIEU ET AL

**Examiner**

PHONG H. NGUYEN

**Art Unit**

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 February 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18, 30-32, 40-42 and 44 is/are pending in the application.
- 4a) Of the above claim(s) 1-18 and 30-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 40-42 and 44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 40-42 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Matthai et al. (5,702,415), hereinafter Matthai.

Regarding claim 40, Mathai teaches a blade-guard assembly for a rotary trimmer comprising:

a cutting blade 9 having a plurality of apertures (Fig. 3),

a hub (12, 81; Fig. 2) connected to the cutting blade via the plurality of apertures,

a blade guard 86 secured to the hub and forming a blade-guard assembly with the cutting blade 9, with the blade guard being connected to the cutting blade (through the hub), the blade guard covering the cutting blade such that at least a portion of the cutting blade is exposed for cutting, the blade-guard assembly being removable from, and placeable on, the rotary trimmer as a unit.

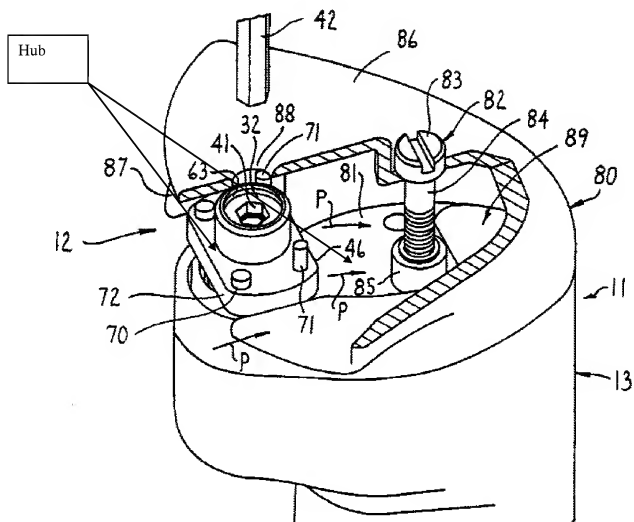
It should be noted that the term “unitary structure” is very broad. The term does not describe specifically how the guard and the blade form a unit. One can always arbitrarily group

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parts in an apparatus to form a unit. In this case, the entire upper portion (guard 86 and chuck 12 and blade 9) of the trimmer form a unit.

Regarding claims 41 and 42, a central aperture and a plurality of apertures are best seen in Fig. 1.

Regarding claim 44, see Fig. 2.



3. Claims 40-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulz et al. (5,765,289), hereinafter Schulz.

Regarding claim 40, Schulz teaches a blade-guard assembly for a rotary trimmer comprising:

a cutting blade 22 having a plurality of apertures (three small U-shaped apertures on the circumference of a big central aperture),

a hub 32 connected to the cutting blade via the plurality of apertures,

a blade guard 42 secured to the hub and forming a blade-guard assembly with the cutting blade 9, with the blade guard being connected to the cutting blade, the blade guard covering the cutting blade such that at least a portion of the cutting blade is exposed for cutting, the blade-guard assembly being removable from, and placeable on, the rotary trimmer as a unit.

It should be noted that the term “unitary structure” is very broad. The term does not describe specifically how the guard and the blade form a unit. One can always arbitrarily group parts in an apparatus to form a unit. In this case, the guard 42 and the blade 22 form a unit.

See Figs. 5 and 9.

Regarding claims 41 and 42, a big central aperture and three small apertures of the cutting blade 22 are best seen in Fig. 5.

#### **Response to Arguments**

4. Applicant's arguments filed 02/24/2011 have been fully considered but they are not persuasive.

The Applicant argues that claim 1 claims the blade guard assembly as a unitary structure consisting of the blade guard, the hub and the blade. This unitary structure is removable from and placeable on the rotary trimmer as a unit without the cutting blade being disconnect from the blade guard or hub. This argument is not persuasive. Firstly, it appears that the Applicant means claim 40 but not claim 1 because claim 1 has been withdrawn. Secondly, regarding the limitation of the unitary structure, claim 40 does not state that the unitary structure is removable from and placeable on the rotary trimmer as a unit without the cutting blade being disconnect from the blade guard or hub. Furthermore, the term "unitary structure" is very broad. The term does not describe specifically how the guard and the blade form a unit. One can always arbitrarily group parts in an apparatus to form a unit. See the rejections of claim 40 under Mathai and Schulz for how the parts are group into a unit.

It appears that the Applicant tries to incorporate limitation in the Specification into the claims. The Applicant is reminded that limitations appearing in the specification but not recited in the claim should not be read into the claim. Claims must be interpreted in view of the specification without importing limitations from the specification into the claims unnecessarily. See MPEP 2106 (II) section C.

#### **Conclusion**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHONG H. NGUYEN whose telephone number is (571)272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Phong H Nguyen/  
Examiner, Art Unit 3724  
February 27, 2011